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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,336	12/29/2000	Joshua L. Coates	SCAL.P0004	8407
23349	7590	01/02/2004		
STATTler JOHANSEN & ADELI P O BOX 51860 PALO ALTO, CA 94303			EXAMINER LE, DIEU MINH T	
			ART UNIT 2114	PAPER NUMBER 5
DATE MAILED: 01/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,336

Applicant(s)

COATES ET AL.

Examiner

Dieu-Minh Le

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Part III DETAILED ACTION

Specification

1. Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

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Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable Deitz et al. (US Patent 6,578,158 hereafter referred to as Deitz) in view of Jones (US Patent 5,757,642).

As per claim 1:

Deitz substantially teaches the invention. Deitz teaches:

- a failover system [abstract, col. 1, lines 1-11].

comprising:

- storage center for storing a plurality of files [fig. 1 & 2, col. 3, lines 25-28];
- local computer for utilizing at least one file stored at storage center [fig. 1 & 2, col. 3, lines 25-28];
- first local device (i.e., controllers) [col. 3, lines 5-7] coupled to local computer [fig. 1 and 2] for operating as active storage port [col. 3, lines 63-66 and col. 5, lines 37-41], active storage port for receiving file system

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operation requests on file from local computer and for transferring information for file system operation, local computer and first local device being coupled through a communication mechanism [fig. 1 & 2, col. 4, lines 60 through col. 5, line 17].

- second local device (i.e., controllers) [col. 3, lines 5-7] coupled to local computer [fig. 1 and 2] for operating as passive storage port [col. 3, lines 63-66 and col. 5, lines 37-41], passive storage port for switching to active storage port during failover condition [col. 3, lines 10-17 and col. 6, lines 46-53, and col. 9, lines 5-14], local computer and second local device being coupled through communication mechanism utilized by first local device [fig. 1 and 2].

Deitz does not explicitly teach:

- remote storage center.

However, Deitz does disclose capability of:

- a method and apparatus for providing a RAID controller having transparent failover and failback [abstract, col. 1, lines 15-11] comprising:

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- a data networking transmission connectivity among plurality of host computer, controller, plurality of data storage, etc...

[fig. 1 and 2, col. 4, lines 60 through col. 5, lines 32];

- plurality of data storage connected to host computers via a networking environment [fig. 1 and 2, col. 3, lines 25-28].

In addition, Jones explicitly teaches:

- a method and system for providing fault tolerant in a networking client/server computing environment [abstract, fig. 1, col. 1, lines 1-13];

comprising:

- LAN and WAN client/server communications [col. 1, lines 25-37].

- a failure tolerant among multiple controllers, data storages and processors (i.e., failover).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made first, to realize the Deitz's **plurality of data storage connected to host computers via a networking environment** as being the remote storage center as claimed by Applicant. This is because Deitz does perform the failover capability within the

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computer system to ensuring data can be accessed locally or remotely to and from data storage devices (i.e., data storage center) via active and passive port switching functionality; second, one would modify the Deitz to explicitly including the Jones' **a failure tolerant among multiple controllers, data storages and processors** via client/servers LAN and WAN environment in supporting the computer system failover or fault tolerant capability.

This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so to provide the data computing system with plurality of communication nodes, host computers, servers, data storage with a mechanism to enhance data access to data storage locally or remotely. By utilizing this approach, a data processing computer can be realized in high performance throughput with a high reliability and flexibility data transmission environment.

As per claims 2-4:

Deitz substantially teaches the invention. Deitz teaches:

- a failover system [abstract, col. 1, lines 1-11].

comprising:

- additional local devices to support a 2N failover configuration of storage port, wherein "N" represents any

integer value [fig. 1 & 2, col. 5, lines 12-17 and col. 5, lines 25-32];

- communication mechanism comprising [fig. 1 & 2];
- a network [fig. 1 & 2].
- first local device comprises a network interface [col. 5, lines 5-7 and col. 5, lines 18-25] that communicates on network using a network address [col. 3, lines 10-12 and col. 6, lines 6-12].
- second local device comprises a network interface [col. 5, lines 5-7 and col. 5, lines 18-25] that communicates on network after a failover condition [col. 3, lines 10-17 and col. 6, lines 46-53, and col. 9, lines 5-14] using a network address [col. 3, lines 10-12 and col. 6, lines 6-12] of first local device.
- a network files system such that local computer exports local file system using network address to conduct file system operation [col. 5, lines 58 through col. 6, lines 17].

As per claim 5:

Deitz substantially teaches the invention. Deitz teaches:

- a failover system [abstract, col. 1, lines 1-11].

comprising:

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- active storage port further comprises a network interface [fig. 1 & 2, col. 5, lines 5-7 and col. 5, lines 18-25] to couple active storage port to passive storage port [fig. 1 & 2] and processes to monitor the health of active storage port[col. 3, lines 12-14 and col. 6, lines 63 through col. 7, lines 7, and col. 8, lines 14-27];

- passive storage port further comprises a network interface [fig. 1 & 2, col. 5, lines 5-7 and col. 5, lines 18-25] to couple passive storage port to active storage port [fig. 1 & 2] and processes to query active storage port to obtain a status of the health of active storage port[col. 3, lines 12-14 and col. 6, lines 63 through col. 7, lines 7, and col. 8, lines 14-27];

Deitz does not explicitly teach:

- a pre-determined threshold.

However, Deitz does disclose capability of:

- a method and apparatus for providing a RAID controller having transparent failover and failback [abstract, col. 1, lines 15-11]

comprising:

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- a data networking transmission connectivity among plurality of host computer, controller, plurality of data storage, etc... [fig. 1 and 2, col. 4, lines 60 through col. 5, lines 32];
- a polling or pinging scheme [col. 6, lines 63 through col. 7, lines 7] and reset and resume function [col. 9, lines 1-14].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to realize the Deitz's **a polling or pinging scheme, reset and resume function** as being the pre-determined threshold as claimed by Applicant. This is because Deitz applied these function to performing the ports switching from active to passive modes. Therefore, in order to achieving this means, Deitz has to have a threshold or certain signaling level to allowing the port to switch from active to passive via failover function.

As per claims 6-7:

Deitz substantially teaches the invention. Deitz teaches:

- a failover system [abstract, col. 1, lines 1-11].

comprising:

- active storage port comprise a data cache, for storing file, and a directory cache for storing file system

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information on file (i.e., RAID) [fig. 1 & 2, col. 3, lines 25-30 and col. 5, lines 48-57];

- first and second local devices comprise network interface [col. 5, lines 5-7 and col. 5, lines 18-25] for communicating to storage device [fig. 1 & 2];

As per claims 8-13:

Due to the similarity of claims 8-13 to claims 1-7 except for an apparatus comprising first local and second local device for operating active and passive storage ports, respectively, a network, etc... instead the failover system comprising first local and second local device for operating active and passive storage ports, respectively, a network, etc...; therefore, these claims are also rejected under the same rationale applied against claims 1-7. **In addition, all of the limitations have been noted in the rejection as per claims 1-7.**

As per claims 14-20:

Due to the similarity of claims 14-20 to claims 1-7 except for a method for configuring a storage system for failover operation comprising first local and second local device step for operating active and passive storage ports, respectively, a network step, etc... instead the failover system comprising first

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local and second local device for operating active and passive storage ports, respectively, a network, etc...; therefore, these claims are also rejected under the same rationale applied against claims 1-7. In addition, all of the limitations have been noted in the rejection as per claims 1-7.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. A shortened statutory period for response to this action is set to expired THREE (3) months, ZERO days from the date of this letter. Failure to respond within the period for response will cause the application to be abandoned. 35 U.S.C. 133.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (703) 305-9408. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel, can be reached on (703)305-9713. The fax phone number for this Group is (703)746-7240.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703)872-9306, (for formal communications
intended for entry)

Hand-delivered responses should be brought to Crystal
Park II, 2121 Crystal Drive, Arlington. VA., Sixth
Floor (Receptionist).



**DIEU-MINH THAI LE
PRIMARY EXAMINER
ART UNIT 2114**

DML
12/29/03